

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8546 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

CHANDRIKABEN CHAKUBHAI VAGHRI (SOLANKI)

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner

MS HARSHA DEVANI, ld.AGP for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/10/2000

ORAL JUDGEMENT(Per :M.R.Calla,J)

This Special Civil Application is directed against the petitioner's detention order dated 7.6.2000 passed by the Police Commissioner, Rajkot City detaining the petitioner under Sec.3(2) of the Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner was

committed to the Sabarmati Central Jail and it is given out by the learned counsel for the petitioner that during the pendency of the petition, the petitioner was shifted to Baroda Central Jail.

No reply to the petition has been filed.

The petitioner is a lady aged 20 years. The grounds in support of the detention order show that 4 criminal cases were registered against the petitioner relating to chain snatching between 13.5.2000 and 3.6.2000. Besides this the detaining authority has also referred to the statements made by witnesses on 5.6.2000 and 6.6.2000, which were verified by the detaining authority on 6.6.2000 and the detention order was passed on 7.6.2000. So far as the allegations in the four criminal cases with regard to chain snatching are concerned, it cannot be said that they constitute a case of breach of public order and at the most it can be said to be a case of breach of law and order. Besides this the detaining authority has taken into consideration the statements of witnesses recorded on 5.6.2000 and 6.6.2000 with regard to the incidents dated 12.3.2000 and 7.5.2000. The provisions of Sec.9(2) of the Act have been invoked for non disclosure of the identity of the witnesses. It is not in dispute that these statements, which were recorded on 5.6.2000 and 6.6.2000 were verified by the detaining authority on 6.6.2000 and the detention order was passed on 7.6.2000. The petitioner is said to be a strong headed person and incorrigible offender and she has been mentioned as a dangerous person by the detaining authority, on the basis of her activities as aforesaid.

Learned counsel for the petitioner has placed reliance on the decision in the case of Kalidas Chandubhai Kahar v. State of Gujarat, reported in 1993(2) GLR page 1659 and has submitted that the detaining authority's satisfaction stands vitiated in the case and it is a case of wrong exercise of power under Sec.9(2) of the Act. That was a case in which the proposal was made on 16.10.92 and the detention order was passed on the next day i.e. on 17.10.92. In the instant cases, statements were recorded on 5.6.2000 and 6.6.2000, the same were verified on 6.6.2000 and the detention order was passed on 7.6.2000.

For the reasons,as aforesaid, the impugned detention order dated 7.6.2000 passed by the Police Commissioner, Rajkot City, cannot be sustained in the eye

of law and the same is hereby quashed and set aside. It is directed that the petitioner Chandrikaben Chakubhai Vaghri (Solanki) shall be released forthwith from Central Jail, Baroda where she is detained since 7.6.2000, in case she is not required in any other matter. This Special Civil Application is allowed. Rule is made absolute.

(M.R.Callan,J)